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What is the system failure?

FL Delmonico[1]

As a result of the increasing use of live organ donors, international conferences have been held in Amsterdam and Vancouver to address the transplant community's concern for the well-being of such donors. Congress has considered arguments to permit a regulated market of organ sales but has rejected such a proposal, in part because of a fundamental ethical principle: selling one's kidney or any other part of one's body violates the dignity of the human person. The "system failure" is not only at the doorstep of organ donation. The expansion of the waiting list for kidney transplants is heavily composed of the elderly who could have benefited by preventive medical care.

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The shortage of organs for transplantation is widely known and is affecting the practice of transplantation around the world. The demand for organs has propelled an international use of live organ donors that only a few years ago would have been considered an alarming development by the World Health Organization, which, in a resolution in 1991, called for the preferential transplantation of organs from deceased donors.[1] As a result of the increasing use of live donors, international conferences have been held in Amsterdam and Vancouver to address the transplant community's concern for the well-being of such donors.[2,3] Ethics statements have emphasized the necessity of informed consent and the proper care of an organ donor, whether the donation is altruistic (without monetary compensation) or is as a vendor of an organ sale.[4] (We should be clear that there is no international objection to the reimbursement of donors' expenses; it is the sole motivation of monetary gain that brings controversy.) In each of these conferences, however, the participants did not resolve the most contentious issue: the ethical propriety of buying and selling organs.

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In "Payment for donor kidneys: pros and cons"[5] (this issue), Drs. Eli and Amy Friedman present a perspective that, given the stature of the authors, necessitates commentary. The paper's title cites "pros and cons"; however, its content is clearly weighted toward an advocacy for the government to pay vendors for their kidneys.

Several years ago, I had the honor to debate Dr. Eli Friedman (in his home territory in Brooklyn, New York) regarding the use of monetary compensation for organs. As Dr. Friedman has been widely known as a proponent of organ sales, the debate offered an anticipated exchange of opinion, with my presenting an opposing view. The arguments that Dr. Friedman made in that debate years ago and those used in the current reflection in *Kidney International* are the same; there is nothing new. So why has the United States Congress not adopted the recommendations of the Friedmans to "establish a federal agency to manage the marketing and purchase of donor kidneys in collaboration with the United Network for Organ Sharing"?

As the current president of the United Network for Organ Sharing (UNOS), permit me to make clear that there is no resolution before the UNOS Board of Trustees to consider such a proposal — nor will there be a recommendation to do so. Second, also perhaps to the authors' dismay, Congress did not accept those debate arguments made years ago by Dr. E. Friedman, in the drafting of the 2004 legislation by Senator William Frist. Unequivocally, Congress rejected them. The Frist legislation had no provision that would postulate a federal government program to petition the poor to sell their kidneys. The reasons for that congressional opposition were not detailed in the report language associated with the legislation, but my personal conversation with congressional staff brought forth a fundamental ethical principle: selling one's kidney, selling a part of one's liver, or selling any other part of one's body violates the dignity of the human person. If this were not true, then Congress might be obliged to consider a parallel public policy that would permit its citizens to sell more than just their body parts. The key contention of the authors that one can dispose of one's body as one sees fit did not overcome what otherwise would have been a contentious battle of society before Congress to the contrary. Further, the notion that society's acceptance of other high-risk activities is a basis to endorse kidney selling was not found by congressional staff to be realistic. There are high-risk activities, but military service or coal mining is not perceived as prostitution.

Notwithstanding the writings of Drs. Friedman and Friedman and others cited in their commentary, Congress is well aware that the current opposition to a regulated market of organ sales in the United States remains formidable. This opposition includes the National Kidney Foundation, the American Society of Transplant Surgeons, and The Transplantation Society (international). Thus, unless Congress were to be apprised of an overwhelming consensus of the public and the transplant community to change the current federal law, the authors may have to acknowledge that their arguments are not sufficiently compelling to do so. The 1984 National Organ Transplant Act that prohibits organ sales imposes the burden on those who would change the law to muster the forces, but those concerted forces plainly do not exist.

The Friedmans have presented their thoughts not just from a United States perspective but to an international readership

via *Kidney International*. There is indeed an international concern that the poor of several countries are selling kidneys to affluent individuals who have the resources to make that purchase. These sales are inherently coercive. What evidence do the authors have that enables the conclusion that the "sale of purchased donor kidneys [that] now accounts for thousands of black market transplants" is "voluntary"?

The World Health Organization has recently conducted regional meetings in Manila and Karachi to obtain the insights of health officials about the transplant tourism that is occurring. Regional officials agree that the black markets must be eliminated by a concerted effort of the United Nations, just as the black markets for the sale of women and children must be addressed.

The Friedmans seem out of touch when they suggest that "the number of deceased donor kidney transplants performed in the United States has been relatively static over the past decade." As a result of the Organ Donation Collaborative, the United States is in the midst of unprecedented increases in the number of deceased organ donors.

Finally, the Friedmans pose this question, seemingly the ultimate one for them: "What then is to be done to ease the shortage of kidney donors?" Well, the authors might be just as fervent in recommending national policy that brings preventive medicine to improve public health. Obesity, hypertension, adult-onset diabetes, and atherosclerotic disease are major components of the increasing necessity for kidney transplants. Preventive medicine is omitted from the table of the authors' solutions.

The "system failure" that the authors decry is not only at the doorstep of organ donation when the expansion of the waiting list for kidney transplants is heavily composed of the elderly whose poor medical care has resulted in end-stage renal disease.

The frequency with which patients die with a functioning graft in the immediate post-transplantation period may be reflective of the medical unsuitability of some patients to undergo renal transplantation.[6] If so, then perhaps the authors would consider that the true system failure may be the expectation that the central solution resides in a limitless number of human organs. Unless and until an organ supply is derived from genetically manipulated pigs, some patients may die when the omission of preventive medical care has resulted in end-stage organ failure.

REFERENCES

1. Delmonico F. Commentary: the WHO resloution on human organ and tissue transplantation. *Transplantation* 2005; **79**: 639–640.
2. Delmonico F, Council of the Transplantation Society. A Report of the Amsterdam Forum on the Care of the Live Kidney Donor: Data and Medical Guidelines. *Transplantation* 2005; **79** (Suppl6): 553–566.
3. Ethics Committee of the Transplantation Society. The consensus statement of the Amsterdam Forum on the Care of the LIve Kidney Donor. *Transplantation* 2004; **78**: 491–492.
4. Abecassis, M, Adms M, Adams P et el. Consensus statement on the live organ donor. *JAMA* 2000; **284**: 2919–2926.
5. Friedman E, Friedman A. Payment for donor kidneys: pros and cons. *Kidney Int* 2006; **69**: 960–962.
6. Meier-Kriesche HU, Schold JD, Gaston RS et al. Kidneys from deceased donors: maximizing the value of a scarce resource. *Am J Transplant* 2005; **5**: 1725–1730.

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Rewards for organ donation: the time has come

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Strategies to expand the pool of solid organs for transplantation have had only limited success. Waiting times exceeding 5 years and/or waiting mortality are not uncommon. A system of financial rewards for living and deceased organ donation is proposed. The reward program would be administered by the federal government. Donors or beneficiaries would receive a fixed financial reward, similar to the payout of an insurance policy, from a federal agency. Such a system would be consistent with similar financial rewards given in our society to recognize instances of personal self-sacrifice and risk taking performed for the benefit of others.

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In their article "Payment for donor kidneys: Pros and cons,"[1] in this issue (p 960), the very distinguished transplantation experts Eli and Amy Friedman present a thoughtful, well-organized, balanced analysis of the reasons to consider establishment of a "federal agency to manage the marketing and purchase of donor kidneys in collaboration with the United Network for Organ Sharing." I agree with the concepts and direction of their arguments to consider some type of compensation or financial reward for organ donation. I do differ in the details of how such a policy should be implemented. Also, I do not think that the function of such an agency should be described as the management of the marketing and purchase of donor kidneys — but more about that later.

The facts as presented are irrefutable: the number of people sustaining end-stage renal failure annually continues to grow, the number of available kidneys (from living and deceased donors) that are successfully transplanted remains below the number required to keep up with this growth, and the time on the waiting list continues to increase (more than 5 years in many regions). A substantial number of people (7%) waiting on the list die each

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